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April 20, 2009

By e-filing

Anne K. Quinlan, Esq.
Acting Secretary
Surface Transportation Board
395 E Street, S.W., Suite 100
Washington, DC 20024

224907

Re: Finance Docket No. 35175, *Roseburg Forest Products Co., Timber Products Company, L.P., Suburban Propane, L.P.; Cowley D&L, Inc., Sousa Ag Service and Yreka Western Railroad Company -- Alternative Rail Service -- Central Oregon & Pacific Railroad, Inc.*

Ex Parte No. 346 (Sub-No. 25C), *Rail General Exemption Authority -- Lumber or Wood Products*

224908

Dear Ms. Quinlan:

Hereby transmitted is a Petition For Leave To File Limited Surrebuttal Evidence, for filing with the Board in the above referenced matters.

Very truly yours,

Tom McFarland

Thomas F. McFarland
Attorney for Petitioners

BEFORE THE
SURFACE TRANSPORTATION BOARD

ROSEBURG FOREST PRODUCTS CO.;)	
TIMBER PRODUCTS COMPANY, L P ;)	
SUBURBAN PROPANE, L P , COWLEY)	FINANCE DOCKET
D&L, INC., SOUSA AG SERVICE and)	NO. 35175
YREKA WESTERN RAILROAD)	
COMPANY-- ALTERNATIVE RAIL)	
SERVICE -- CENTRAL OREGON &)	
PACIFIC RAILROAD, INC.)	
)	
RAIL GENERAL EXEMPTION)	EX PARTE NO 346
AUTHORITY -- LUMBER OR WOOD)	(SUB-NO 25C)
PRODUCTS)	

PETITION FOR LEAVE TO FILE LIMITED SURREBUTTAL EVIDENCE*

ROSEBURG FOREST PRODUCTS CO.
P O Box 1088
Roseburg, OR 97470

TIMBER PRODUCTS COMPANY, L.P.
P O. Box 766
Yreka, CA 96097

SUBURBAN PROPANE, L.P.
212 State Street
Yreka, CA 96097

COWLEY D&L, INC.
701 Highway A-12
Grenada, CA 96038

SOUSA AG SERVICE
861 South 11th Street
Montague, CA 96064-9298

YREKA WESTERN RAILROAD COMPANY
300 East Minor Street
Yreka, CA 96097

Petitioners

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Attorney for Petitioners other than
Yreka Western Railroad Company

DATE FILED April 20, 2009

* Limited surrebuttal evidence is tendered with this Petition

BEFORE THE
SURFACE TRANSPORTATION BOARD

ROSEBURG FOREST PRODUCTS CO ;)	
TIMBER PRODUCTS COMPANY, L P ,)	
SUBURBAN PROPANE, L P., COWLEY)	FINANCE DOCKET
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PACIFIC RAILROAD, INC)	
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PRODUCTS)	

PETITION FOR LEAVE TO FILE LIMITED SURREBUTTAL EVIDENCE

Pursuant to 49 C F R § 1117.1, Petitioners Roseburg Forest Products Co , et al , hereby petition for leave to file limited surrebuttal evidence, which is hereby tendered with this Petition. In support thereof, Petitioners submit the following:

JUSTIFICATION FOR FILING OF LIMITED SURREBUTTAL EVIDENCE

In their Petition filed on August 26, 2008, Petitioners alleged that CORP's curtailment of rail service was not undertaken in response to a decline in Petitioners' traffic volume. CORP did not deny that allegation in its initial statement. Consequently, there was no occasion for Petitioners to submit further evidence on that subject matter in their rebuttal statement.

However, in its Supplemental Statement filed on March 31, 2009, CORP now alleges that its curtailment of rail service was undertaken in response to a decline in Petitioners' rail traffic volume (at 4-5, 24). CORP did not provide traffic data in support of that allegation. Petitioners'

limited surrebuttal evidence providing the appropriate traffic data is justified to ensure that the record is accurate on that important subject matter

LIMITED SURREBUTTAL EVIDENCE

Petitioners' limited surrebuttal evidence consists of the attached table showing a compilation of raw materials carloads shipped by RFP and TPC over Siskiyou Summit in the months of 2007 prior to CORP's December 13, 2007 notice of service curtailment, compared to corresponding months of 2006

That compilation shows the following

- (1) That traffic in every month between January and November, 2007 exceeded traffic in every corresponding month of 2006; and
- (2) That traffic in Jan -Nov 2007 exceeded corresponding traffic in Jan -Nov , 2006 by 22.4 percent, and
- (3) That traffic in June-Nov 2007 exceeded corresponding traffic in June-Nov 2006 by 18.1 percent, and
- (4) That traffic in Sept -Nov 2007 exceeded corresponding traffic in Sept -Nov 2006 by 7.6 percent

In summary, CORP's service curtailment announced in December, 2007 could not have been undertaken in response to a decline in Petitioners' traffic volume because Petitioners' traffic in every month between January and November, 2007 exceeded corresponding traffic between January and November, 2006. Indeed, in the 11-month period prior to the service curtailment, Petitioners' traffic increased by 22.4 percent compared to the corresponding 11-month period of 2006. In the 6-month period prior to the service curtailment Petitioners' traffic increased by 18.1

percent compared to the corresponding 6-month period of 2006. In the 3-month period prior to the service curtailment, Petitioners' traffic increased by 7.6 percent compared to the corresponding 3-month period of 2006.

CORP is thus shown to have radically curtailed rail service at a time when the demand for such service was decidedly on the upswing. That confirms what Petitioners have consistently alleged: that there was no legitimate transportation-related reason for CORP's substantial reduction of rail service. The evidence thus shows that over an identified period of time, there was a substantial, measurable, and wholly unjustified deterioration in CORP's rail service that warrants an order for alternative rail service under 49 C.F.R. § 1146.1(a).

Respectfully submitted,

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Attorney for Petitioners other than
Yreka Western Railroad Company

DATE FILED April 20, 2009

**RAW MATERIALS CARLOADS SHIPPED BY ROSEBURG FOREST PRODUCTS
AND TIMBER PRODUCTS COMPANY OVER SISKIYOU SUMMIT IN THE MONTHS
OF 2007 PRIOR TO CORP'S DECEMBER 13, 2007 NOTICE OF SERVICE
CURTAILMENT, COMPARED TO CORRESPONDING MONTHS OF 2006**

YR	MONTH	RFP CARLOADS	TPC CARLOADS	TOTAL CARLOADS
2006	Jan	100	94	194
	Feb	88	58	146
	Mar	73	89	162
	Apr	87	97	184
	May	71	87	158
	Jun	45	92	137
	July	88	96	184
	Aug	119	96	215
	Sept	111	91	202
	Oct	141	103	244
	Nov	115	80	195
11 mo 2006		1038	983	2021
2007	Jan	117	109	226
	Feb	80	99	179
	Mar	105	113	218
	Apr	130	117	247
	May	113	100	213
	Jun	110	109	219
	July	155	105	260
	Aug	154	68	222
	Sept	117	96	213
	Oct	151	109	260
	Nov	139	78	217
11 mo 2007		1371	1103	2474

-- Traffic in every month in 2007 exceeds traffic in every corresponding month of 2006

-- Traffic in Jan-Nov 2007 exceeds traffic in Jan-Nov, 2006 by 22.4 percent

-- Traffic in Jun-Nov 2007 exceeds traffic in Jun-Nov 2006 by 18.1 percent

-- Traffic in Sept-Nov 2007 exceeds traffic in Sept-Nov 2006 by 7.6 percent

Pursuant to 28 U.S.C. § 1746, I declare and verify under penalty of perjury under the laws of the United States of America that the foregoing statement is true and correct.

A handwritten signature in black ink, appearing to read "Andrew E. Jeffers", written over a horizontal line.

ANDREW E. JEFFERS

|

Pursuant to 28 U S C. § 1746, I declare and verify under penalty of perjury under the laws of the United States of America that the foregoing statement is true and correct.



SUSAN S. HART

CERTIFICATE OF SERVICE

I hereby certify that on April 20, 2009, I served the foregoing document, Petition For Leave To File Limited Surrebuttal Evidence, by e-mail and first-class, U S mail, on the following:

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